



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,782	02/08/2001	Frank Venegas JR.	IDS-14502/14	6741

25006 7590 02/14/2007
GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

EXAMINER

CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
----------	--------------

3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/779,782

Applicant(s)

VENEGAS, FRANK

Examiner

Robert J. Canfield

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-9, 11, 12 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 2-9, 11, 12, 14-16 and 18 is/are rejected.
- 7) ☒ Claim(s) 2-7, 12, 14, 15, 17, 18, 20 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Art Unit: 3635

1. This Office action is in response to the amendment filed 11/13/06. Claims 2-9, 11, 12, and 14-21 are pending. Claims 1, 10 and 13 have been canceled.

2. The terminal disclaimer filed 11/13/06 has been accepted.

3. The replacement-drawing sheet filed 11/13/06 has been accepted.

4. Claims 2-7, 12, 14, 15, 17, 18, 20 and 21 are objected to because of the following informalities: the preambles of the claims fail to agree with the preambles of the independent claims from which they depend. The word "protective" should be deleted from claims 2, 3, 12, 13, 15, 17 and 18. The word "barrier" should be deleted from claims 4-7. The language "protect cover" in claims 20 and 21 should be changed to - - assembly - -. Appropriate correction is required.

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 2-9, 11, 12, 14 and 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no written

Art Unit: 3635

description of the cover being rigid or semi-rigid. The specification only recites a structural plastic at the bottom of page 5. The language "rigid or semi-rigid" has not been defined and is considered of a different scope than "structural plastic" and is not supported by the specification as originally filed. This is NEW MATTER.

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 2, 4, 8, 9, 11, 14-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,307,282 to Caulkins.

Caulkins provides a plastic protect cover comprising spaced front and back opaque panels 24 with an additional side panel placed there between (column 2, lines 18-20). The cover is intended for automotive tires, which are inherently at least 6 inches wide so the panels must be spaced 6 or more inches. Figure 2 shows a smooth transition at approximately 12 for the rounded edges of the tire. An advertising display of stenciled letters is shown. The plastic material of Caulkins is considered to meet the limitation of semi-rigid.

9. Claim 19 is allowed.

Art Unit: 3635

10. Claims 17, 20 and 21 would be allowable if rewritten to overcome the claim objection set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. Applicant's arguments filed 11/13/06 have been fully considered but they are not persuasive.

Applicant argues that Caulkins fails to include the limitation of the plastic being rigid or semi-rigid. First this limitation is not defined in applicant's specification. Second the plastic film 24 of Caulkins is considered to meet the limitation of semi-rigid. Further, this limitation fails to appear in claim 16. When using the side panel discussed at column 2 lines 18-20 the front, back and side panels are considered to meet the limitation of smoothly transition.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

Art Unit: 3635

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Canfield whose telephone number is 571-272-6840. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert Canfield
Primary Examiner

